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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,338	03/26/2004	Adam Iredell Hayden	1671-0298	1579
28078	7590	09/21/2007	EXAMINER	
MAGINOT, MOORE & BECK, LLP			SHAFFER, RICHARD R	
CHASE TOWER			ART UNIT	PAPER NUMBER
111 MONUMENT CIRCLE			3733	
SUITE 3250				
INDIANAPOLIS, IN 46204				
MAIL DATE		DELIVERY MODE		
09/21/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/811,338	HAYDEN, ADAM IREDELL
	Examiner Richard R. Shaffer	Art Unit 3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 June 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 30-49 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 30-49 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 September 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

Upon further consideration in light of applicant's Appeal Brief filed on June 15<sup>th</sup>, 2007, the finality of the rejection of the last Office action is withdrawn and a new action follows.

### *Drawings*

The amended drawings filed on September 18<sup>th</sup>, 2006 are objected for not clearly depicting the device. The structure drawn is unclear due to the size of the drawing along with appearing hand-drawn.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 30-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Caspari et al (US Patent 5,228,459).

Caspari et al disclose a system (**Figures 2 and 3**) comprising: a pin guide (**140**) with a bore (**142**) defining a first longitudinal axis; a support body (**42**) mountable to bone; an arm (**40**) extending from the support body (**42**); a first support member (**72**) and a second support member (**92**); a first block (**124**) with a dovetailed recess (**122**); a second block (**100**) with a dovetailed member (**121**); a third block (**66**); a fourth block (**60**); a first gross adjustment mechanism (engagement of **76** and **82**) for movement along a second longitudinal axis; a first fine adjustment mechanism comprising a thumbwheel gear (**132**) and rack gear (**104**) also for movement along the second longitudinal axis (when **100** is aligned with **82**); a second gross adjustment mechanism (engagement of **68** with **70**) for movement along a third longitudinal axis; a second fine adjustment mechanism (**78** engaging **72**) also for movement along a third longitudinal axis; a third adjustment mechanism (sliding motion of **46** within **48**); the longitudinal axes are not coincident since the first longitudinal axis is being taken as the center of the bore (**142**) and the third longitudinal axis is taken as the center of the bore within **48**; both allow movement “along” or parallel to the first and/or third longitudinal axes,

however they are not overlapping but rather are parallel and therefore not coincident. In a partial second interpretation, it is also possible to remove stoppers (**146** and **148**) and therefore align the second block (**100**) parallel to the motion of **80** with **98** also providing for a third mechanism along a different direction than the first longitudinal axis.

### ***Response to Arguments***

Applicant's arguments see the Appeal Brief filed on June 15th, 2007 in regard to the rejection of the claims have been fully considered and are persuasive. Specifically, applicant was correct that the examiner had failed to clearly address all of the newly added limitations. The current Office Action set forth to correct the previous deficiencies. If any confusion lingers, it is encouraged that applicant contact the examiner for clarification.

### ***Conclusion***

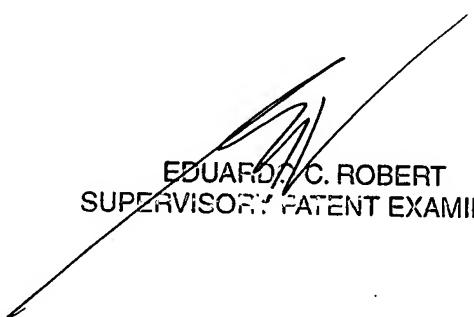
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard R. Shaffer whose telephone number is 571-272-8683. The examiner can normally be reached on Monday-Friday (7am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Richard Shaffer  
September 14<sup>th</sup>, 2007



EDUARD J. C. ROBERT  
SUPERVISORY PATENT EXAMINER